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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,361	10/06/2000	Alexander Gaiger	210121.465C2	9832

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Jane E R Potter
Seed Intellectual Property Law Group PLLC
701 Fifth Avenue
Suite 6300
Seattle, WA 98104-7092

EXAMINER	
SCHWADRON, RONALD B	
ART UNIT	PAPER NUMBER
1644	

DATE MAILED: 03/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/684,361	Gaiger et al.
Examiner	**Art Unit**
Ron Schwadron	1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.

2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-45* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims *1-45* are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
18) ☐ Interview Summary (PTO-413) Paper No(s). _____
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other:

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-9, are drawn to peptides and compositions and vaccines containing said peptide, classified in Class 514, subclass 2.

II. Claim 10 is drawn to mimetic, classified in Class 514, subclass 23.

III. Claims 11,12 are drawn to polynucleotides, classified in Class 514, subclass 44.

IV. Claim 13 is drawn to antibodies, classified in Class 424, subclass 130.1.

V. Claim 14 is drawn to T cells, classified in Class 424, subclass 93.71.

VI. Claim 15 is drawn to APC , classified in Class 424, subclass 93.7.

VII. Claims 16-18,24 are drawn to methods of treatment using peptides, classified in Class 514, subclass 885.

VIII. Claims 17,24 are drawn to methods of treatment using polynucleotides, classified in Class 514, subclass 43.

IX. Claim 17 is drawn to method of treatment using antibodies, classified in Class 424, subclass 138.1.

X. Claim 17 is drawn to method of treatment using T cells, Class 424, subclass 534.

XI. Claims 17,24 are drawn to methods of treatment using APCs, classified in Class 424, subclass 529.

XII. Claims 19-23 drawn to a method of expanding T cells using a peptide, classified in Class 435, subclass 2.

XIII. Claims 19-23 are drawn to a method of expanding T cells using nucleic acids, classified in Class 435, subclass 375.

XIV. Claims 25-45 are drawn to methods of detection using polypeptides, classified in Class 435, subclass 7.2.

XV. Claims 25-45 are drawn to methods of detection using polynucleotides, classified in Class 435, subclass 6.

XVI. Claims 25-45 are drawn to methods of detection using APC, classified in Class 435 subclass 29.

XVII. Claims 19-23 are drawn to a method of expanding T cells using APCs, classified in Class 424, subclass 373.

2. The inventions are distinct, each from the other because of the following reasons:

3. Inventions I-VI are different products. Invention I is drawn to peptides, while invention II is drawn to a mimetic, while invention III is drawn to polynucleotides, while invention IV is drawn to antibodies, while invention V is drawn to T cells, and invention VI is drawn to APC. These products are structurally different and have different art recognized uses. Inventions I-IV are drawn to inanimate molecules while inventions V and VI are drawn to cells. Inventions V and VI differ in that the art recognizes that APC and T cells are two different and unique types of cells that are structurally and functionally not related. The products of inventions I-IV are recognized in the art as structurally and functionally distinct with different art recognized uses. Therefore they are novel and unobvious in view of each other and are patentably distinct.

4. Inventions I and VII/XII/XIV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process such as an immunogen for the production of antibodies which bind said peptide.

5. Inventions III and VIII/XV/XIII are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process such recombinant method for making the peptide encoded by said nucleic acid.

6. Inventions IV and IX are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the product as claimed can be used in a materially different

process such as immunopurification of the peptide which said antibody binds.

7. Inventions V and X are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process such as immunogen for the production of antibodies which bind said T cell.

8. Inventions VI and XI/XVI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process such as immunogen for the production of antibodies which bind said APC.

9. Inventions VII to XVII are different methods that use different ingredients to achieve different goals. The inventions are drawn to methods of detection versus methods of treatment versus a method of bone marrow transplantation versus methods of T cell removal wherein the aforementioned methods use different ingredients to achieve different goals. The various methods of treatment use different products that are structurally and functionally distinct. The various methods of detection use different products that are structurally and functionally distinct. Therefore they are novel and unobvious in view of each other and are patentably distinct.

10. Because these inventions are distinct for the reasons given above and the search required for any group from Groups I-XVII is not required for any other group from Groups I-XVII and Groups I-XVII have acquired a separate status in the art as shown by their different classification and divergent subject matter, restriction for examination purposes as indicated is proper.

11. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

12. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

13. The following species requirement is required if applicant elects a group that recites a specific peptide with a specific SEQ. ID.

This application contains claims directed to the following patentably distinct species of the claimed invention which are the specific peptides encoded by the peptides disclosed in the SEQ. ID. listing. These peptides are different peptides with different amino acid sequences.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

14. Papers related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Papers should be faxed to Group 1600 at (703) 308-4242.

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner can normally be reached Monday through Thursday from 7:30 to 6:00. A message may be left on the examiners voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ms Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP ~~1800~~ 1600

Ron Schwadron, Ph.D.
Primary Examiner
Art Unit 1644